

JOE LOMBARDO  
Governor

JAMES E DZURENDA  
Director



FRANCISCO V. AGUILAR  
Secretary of State

AARON D. FORD  
Attorney General

## STATE OF NEVADA BOARD OF STATE PRISON COMMISSIONERS

### DRAFT MEETING MINUTES

The Board of State Prison Commissioners held a public meeting on Thursday, May 25, 2023, beginning at 10:02 a.m., and was conducted at the following locations. The meeting could also be viewed and heard via YouTube.

#### Meeting Location:

Old Assembly Chambers  
State Capitol Building  
101 N. Carson Street  
Carson City, NV 89701

#### Video Conference Location:

Grant Sawyer Building  
555 E. Washington Avenue  
Suite 5100  
Las Vegas, NV 89101

#### 1. Call to Order/Roll Call of Board Members/Confirm Quorum

##### Board Members Present:

Governor Joe Lombardo – in Carson City, NV  
Secretary of State Francisco V. Aguilar – in Las Vegas, NV  
Attorney General Aaron D. Ford – in Las Vegas, NV

##### Board Members Absent:

None

##### Nevada Department of Corrections (NDOC) Attendees:

James E. Dzurenda, Director  
Harold Wickham, Deputy Director of Programs  
Kirk Widmar, Chief of Offender Management Division  
Danyele Madsen, Executive Assistant, Meeting Clerk

2. **Public Comment (1st Period ):** First of two sessions to address the Board of Prison Commissioners regarding items indicated on the agenda (3 minute maximum per speaker). Public comment is transcribed as spoken with minimal edits such as deleting a repeated word. Note: public comments were also accepted in written form via email until 9 p.m. the day before the meeting as indicated on the publicly posted agenda.

#### Las Vegas:

- Good morning, Board members, staff members, and others in attendance. My name is **Patricia Adkisson**. My comments today relate to all regulations under consideration and the Board's nonfeasance implicated by the failure to comply with the statutory rulemaking process. The Nevada legislature in accordance with NRS 233B authorizes almost every department, agency, board, and commission to adopt regulations administrative regulations with some statutory exceptions. Agencies that are exempt from the statutory requirements of 233B are simply not authorized to adopt regulations. The department is one such exempt agency not authorized to adopt regulations; however, this does not mean that the regulations escape the statutory rulemaking procedures. Administrative regulations must be adopted in compliance with statutory rulemaking procedures set forth in the Administrative Procedures Act. Please review the relevant

portion of the State Administrative Manual emphasizing these points of law. It's page 63 of the SAM. Due in part to the Department's described status depriving the Department of authority to adopt regulations this Board is to prescribe regulations for the Department pursuant to NRS 209.111 in accordance with the statutory rulemaking process set forth in the Administrative Procedures Act. When the legislature chose to authorize the adoption of regulations by this Executive Branch Board, the legislature provided for, by law, a review of these regulations by legislative agency before their effective date to determine whether each is within the statutory authority for its adoption. Until now, in the absence of contention that the Board has contravened the relevant constitutional mandate and ignored the Board's steps toward requirements, it has been presumed that Department regulations were duly adopted in compliance with the lawful process. As a result, undue deference has been mistakenly afforded when considering Department regulations. Deference in this way works to effectively conceal the Department's related ongoing violations of statutory law including false Improvement and deprivation of voting rights. This issue is now front and center when considering the related determination by the office of the Secretary of State acknowledging that while my husband, Michael Atkinson, is incarcerated at NNCC, the state of Nevada registered him to vote under our current state laws implicating false imprisonment by the department where my husband's voting rights under state law may not be restored until all convictions are discharged either through expiration or through parole. Records of conviction are maintained by the Central Repository in compliance with the Uniform Crime Reporting Program of the FBI. A review of this official record demonstrates there is no conviction for use of a deadly weapon in Nevada (3 minutes reached) Okay, I'll finish at the end. Thank you.

### **Carson City:**

- No public comment

### **3. Acceptance and Approval of Minutes – October 17, 2022**

Action: A motion made by Attorney General Ford to approve the minutes was made. Motion passed; minutes approved.

### **4. Director's Comments & Departmental Updates – James E. Dzurenda, Director, Nevada Department of Corrections – (for discussion only)**

The Nevada Department of Corrections is planning to make positive movement in reforming the agency in ways that are more consistent with the rest of the country. By redeveloping the re-entry system and putting into place a more robust community development effort, short staffing levels around the state should not inhibit programs and re-entry. We will focus on giving offenders tools to be able to succeed and allowing them to get the training and wrap-around services they are going need to be more successful. Being more successful in the community means all of our families, friends, and communities are going to be safer which ultimately will reduce our offender population down the road. This not only saves money but also allows for more productive citizens in the community.

NDOC is revising policies and procedures that are currently in place today. Community activist groups and the Department of Justice have identified flaws in our system. Offenders need opportunities to be able to not only grieve additional areas but also to get resolutions quicker. We need to stop identifying certain individuals with targeted IDs like HIV or hepatitis that should not be happening. My goal with the agency is to let the offenders have a voice to be heard. Giving them the options to provide their thoughts and be involved in the process.

With the legislative session coming to an end, the way things may be happening, and having a sound budget it looks like we can provide services that are necessary. I do believe we are going to see a big turn and by this time next year we are going to see a whole different agency that is going to be more conducive to what it should be. It will be providing more offenders opportunities, providing the right services, and reducing victimization in our communities by doing things right. Thank you, Governor, and the Board, for supporting what we are doing. This is going to be a big opportunity for all of us to make sure we have better communities.

Secretary of State Aguilar: Can you give us a little update on your financial investment in the facilities and where your need and what potential deficit you have?

Director Dzurenda: The biggest concern and deficit is related to staffing levels. We are not going to be able to provide services appropriately if we are not safe. Not having the appropriate staffing levels is actually shutting services down right now. That does affect our long-term goal of reducing recidivism. It's not a fiscal problem, it's a staffing problem. It's not because we don't have the money or we're not getting the money from the governor's recommended budget to give us the staffing, it's the recruiting, retention, and hiring process. We are revamping the entire process working with not only the governor's office but DHRM and POST to look at how we can speed up the process of hiring. It really comes down to the staffing.

Attorney General Ford: Do you have some infrastructure needs that are not yet budgeted for or funded? Speak to those as well so that we can ascertain the best ways to assist you with that.

Director Dzurenda: Yes, the infrastructure is a concern of mine now. We are getting the funding for the Capital Improvement Projects for many projects for the next four years to be able to fund those projects. We have housing units that are closed because of mold or water heater issues that haven't been replaced. We have doors where the locking mechanisms are not working. Windows that are not working. It's not asking to get the money to be able to do it, it's getting them done. Capital Improvement Projects are there for us to be able to do this, we just got to get going and make sure those are priorities with the State's Capital Improvement Project team so that we don't have more problems down the road.

Attorney General Ford: What can we as a body do to assist you with that Jim, if anything?

Director Dzurenda: A push from the Board to say we are looking for Public Works to prioritize Capital Improvement Projects. Our CIPs are related to safety and security and when we keep pushing things down the road on safety and security sometimes, they eventually become a problem that we don't want to see.

Governor Lombardo: I had a short discussion as early as yesterday with Public Works and we are going to attempt to make that a priority moving forward.

**5. Overview of Administrative Regulation 740 – Offender Grievances Effective April 28, 2022 – (for discussion only)**

Attorney General Ford: Previously requested an overview of the grievance process as it is a complicated process and looks to provide clarity on the matter.

Director Dzurenda: Seeing a lot of flaws in the current grievance procedure and will be working to correct. Hoping to have a temporary regulation coming out in August with a full regulation end of 2023 for Board review and approval. Currently proposed legislation may create an Ombudsman role that would be

involved in the grievance process to hopefully provide another avenue for the offenders and Department before a grievance goes to court.

Secretary of State Aguilar: How will the Arbiters be selected?

Director Dzurenda: Understanding is that an RFP will allow any firm to look at the requirements of the Ombudsman and be able to bid on what they can or cannot do based on the cost of disciplinary appeals and making sure the due process is working.

Governor Lombardo: Requested agenda items for next meeting: Use of Force audit action items and overview of Re-Entry programs. With no further questions from the Board, moved on to item number 6.

**6. Administrative Regulations presented to the Board of Prison Commissioners for discussion and possible action.**

- AR 506 – Reclassification Schedule
- AR 516 – Level System
- AR 523 – Residential Confinement Programs and Re-Entry Court
- AR 610 – Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)
- AR 635 – Medication Distribution, Control, and Security
- AR 643 – Mental Health Services
- AR 817 – Re-Entry Program

Governor Lombardo: Regarding AR 506.03, updating the sex offender discretionary preclusion to correlate with AR521. What is that preclusion?

Chief Kirk Widmar, Offender Management Division, NDOC: AR 521 Custody Categories and Criteria is the primary classification AR which was updated 08/30/22 to reflect State statute that due to a sex offense, an offender cannot achieve minimum custody classification. Updating AR 506 brings it into compliance with AR 521 with matching verbiage.

*Action*: A motion made by Attorney General Ford to approve all Administrative Regulations (506, 516, 523, 610, 635, 643, and 817). Motion passed; all Administrative Regulations presented are approved.

**7. Public Comment (2<sup>nd</sup> Period)**: Second of two sessions to address the Board of Prison Commissioners. Comments are not limited to agenda items (3 minute maximum per speaker). Public comment is transcribed as spoken with minimal edits such as deleting a repeated word. Note: public comments were also accepted in written form via email until 9 p.m. the day before the meeting as indicated on the publicly posted agenda.

**Las Vegas:**

- **Patricia Adkisson** a d k i s s o n - I would like to finish reading my public comment as I don't believe over the last four years once I submit my public comments that they're being reviewed. I can't say here going on. Also I would like to say that I submitted over 100 documents for February's Board of Prison Commissioner meeting and it was canceled and I don't see where those public comments were submitted so I would like to leave a physical copy here for you, Governor. And the last thing is just commenting on some of the things that you guys have spoken of as far as the grievance

process. My husband's been waiting for over a year for a response to a second level of grievance. And then I'm going to finish the last it's just as records of conviction are maintained by the Central Repository in compliance with the Uniform Crime Reporting Program of the FBI. A review of this official record demonstrates that there is no conviction for use of a deadly weapon in Nevada supporting the legislative designation as not a separate offense. Despite the Department's acquiescence to these facts that use of a deadly weapon is not an offense, the Department assigns a category felony offense and fraudulent second conviction. This tragic violation of basic human rights springs from the Board's nonfeasance related to the Nevada Administrator Procedures Act. This circumstance implicates the result of our last election where the margin of victory for some was within the margin of those illegally confined and deprived of their voting rights. I've attached the relevant supporting documents with this presentation and encourage all citizens to request these supporting material. As always, my husband and I are available to meet in efforts to resolve these problems this will serve as my final notice and to preserve my record of objections. Thank you for your time

Meeting Clerk Danyele Madsen: Confirmed Ms. Adkisson's electronic public comment submission from February 2023 and May 2023 were both forwarded to the Board for review and a hard copy was present at current meeting in progress if needed.

Governor Lombardo: Requested Attorney General Ford to collect the printed copy Ms. Adkisson had in hand.

### **Carson City:**

- No public comment

**8. Adjournment:** The meeting was adjourned at 10:41am.

APPROVED THIS DAY, MONTH OF , IN THE YEAR

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GOVERNOR JOE LOMBARDO

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SECRETARY OF STATE FRANCISCO V. AGUILAR

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ATTORNEY GENERAL AARON D. FORD

Minutes prepared by D. Madsen, Executive Assistant, Nevada Department of Corrections